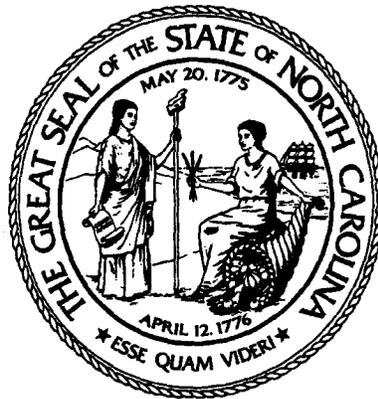


LEGISLATIVE STUDY COMMISSION

ON

CHILD CARE



**REPORT TO THE
1998 SESSION OF THE
1997 GENERAL ASSEMBLY
OF NORTH CAROLINA**





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May 20, 1998

To the honorable Harold Brubaker, Speaker of the House of Representatives; and the Honorable Marc Basnight, President Pro Tempore of the Senate; and the Members of the 1997 General Assembly (Regular Session 1998):

The Legislative Study Commission on Child Care submits for your consideration the following report on its study of the newly enacted child care legislation contained in Part I of S.L. 1997-506, The Commission was established pursuant to Section 28.2 of S.L. 1997-506

At the end of the 1997 Regular Session a very complicated piece of child care legislation was passed as S.L. 1997-506. The Legislative Study Commission on Child Care met February 10, 1998, March 24, 1998, May 6, 1998, and May 19, 1998, to study the substantive issues of the new law and of the rules proposed to be adopted pursuant to it.

Much of the Commission's review and discussion focused on the rules that will become effective July 1, 1998, absent legislative action. The Commission heard testimony both in favor of and opposed to the rules and to the process that, some testified, left them out of the process.

Most of the testimony received by the Commission that opposed the rules opposed two rules in particular, the rules on playground equipment and on credentialing.

The Commission considered a number of proposals to address the issues that related to the rules, and to the general rulemaking process of the Division of Child Development, Department of Health and Human Services and of the Child Care Commission of the Department of Health and Human Services as this process affected the child care provider public and the public in general. It voted to recommend two legislative proposals to the 1998 Regular Session of the 1997 General Assembly. Drafts of both bills are attached to this letter.

The proposals are reviewed on the following pages of this letter.

The first proposal is titled "AN ACT TO REQUIRE THE DIVISION OF CHILD DEVELOPMENT, DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO DEVELOP AND ISSUE A SINGLE, CLARIFIED PUBLICATION FOR ALL CHILD CARE PROVIDERS ON CHILD CARE LAW, RULES, AND POLICY, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON CHILD CARE.

The Commission, in its review of the new child care law and the rules, determined that many of the problems providers were having could be directly attributed to confusion over what actually applied to them. The Division's publications have not, recently, been regular. Providers need a single publication, containing everything they need to stay in compliance with the child care laws. They need this publication to be updated annually, perhaps, as the Division suggested, by loose-leaf supplements. Most importantly, they need this publication to be in a form that is accessible to all and in language that is as clear and as concise as possible.

The second proposal is titled "AN ACT TO ENSURE THAT STATE REGULATION OF CHILD CARE IS DEVELOPED AND ADMINISTERED FAIRLY AND EFFECTIVELY AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON CHILD CARE.

The concerns the Commission heard expressed over the playground rules, that they are inequitable and based on insufficient data, and the credentialing rules, that they permit the teaching of a single, biased philosophy of early childhood education, are addressed in this proposal as are two other issues the Commission determined to be necessary for the General Assembly to consider.

The proposal requires that playground equipment be regulated in terms of safety only if it poses a threat of serious injury, spelled out in the proposal as excluding injuries that result only in bumps, bruises, or splinters or that result only in a trip to the doctor, or if it is or has been subject to a manufacturer's recall. The agency determination of "serious injury" would have to be based on State-wide and other states' data of this injury. The proposal also requires that the newly required North Carolina Early Childhood Credential or any educational equivalent be a basic, generic introduction to early childhood education that is grounded in sound child development practices.

The proposal also changes the nature of this Legislative Study Commission on Child Care to have it continue on past this year as an oversight commission and to require that any agency, whether State, local, or private-public, charged with rulemaking for child care regularly present to the commission all documentation and data on which any new rules are being considered to be developed, prior to their development. The Commission accepted this part of the proposal with some concern of its own. A true oversight commission needs a different membership and appointment provisions than those applicable to the Commission. There was not time for the Commission to rewrite these provisions in time to make its recommendations to the 1998 General Assembly.

The Commission wishes to advise the General Assembly of its intention to rework this part of this proposal as part of the committee process.

A final part of this proposal requires fairness of access for providers when the Division uses the Internet to publish compliance histories and complaints against providers.

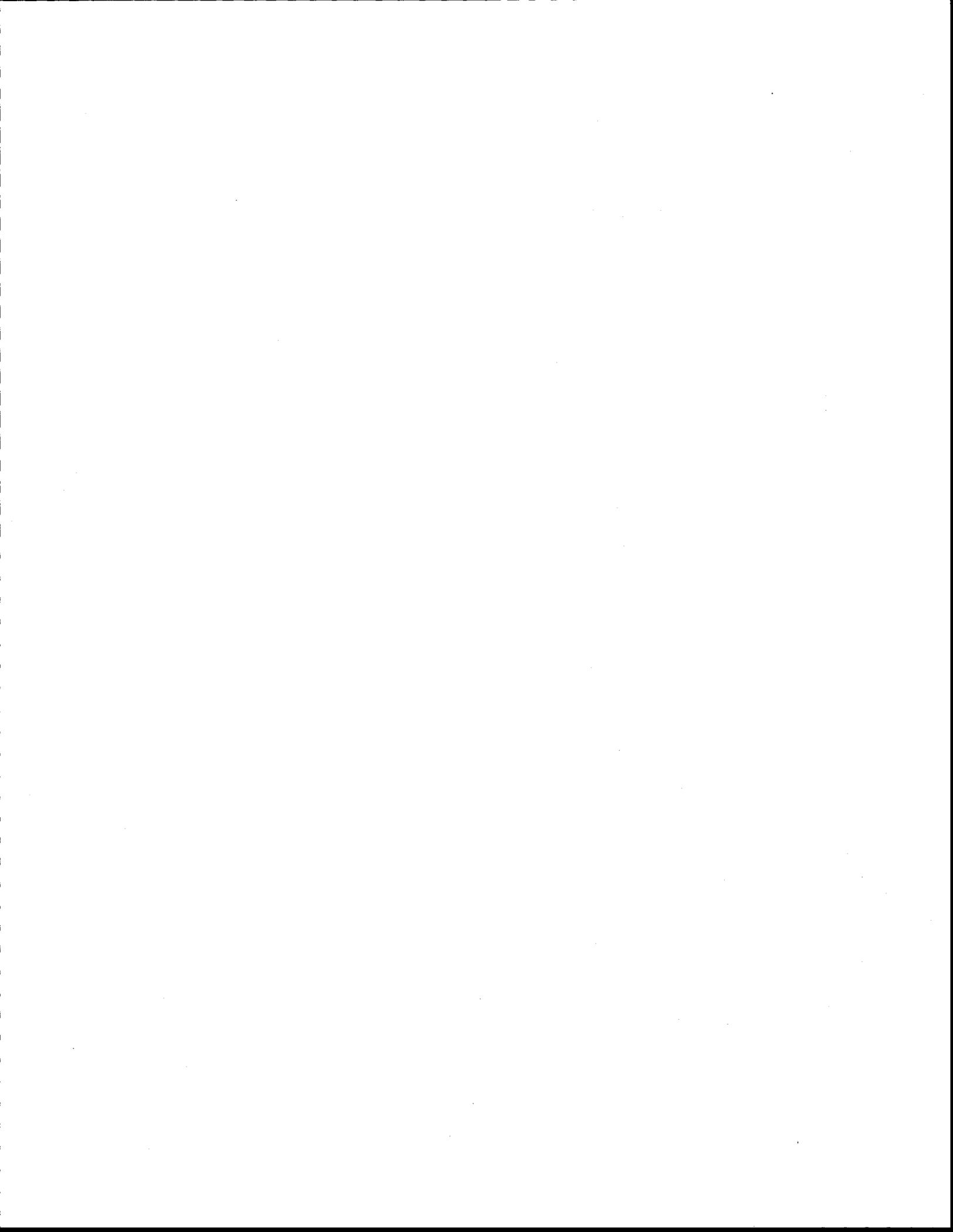
Respectfully submitted,



Representative Wilma Sherrill



Senator Jim Phillips



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE DRS3535*-LFZ020(5.5)

Short Title: Clarified Child Care Publication.

(Public)

Sponsors: Senator Phillips.

Referred to:

1

A BILL TO BE ENTITLED

2 AN ACT TO REQUIRE THE DIVISION OF CHILD DEVELOPMENT,
3 DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO DEVELOP AND
4 ISSUE A SINGLE, CLARIFIED, PUBLICATION FOR ALL CHILD CARE
5 PROVIDERS ON CHILD CARE LAW, RULES, AND POLICY, AS
6 RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON CHILD
7 CARE.

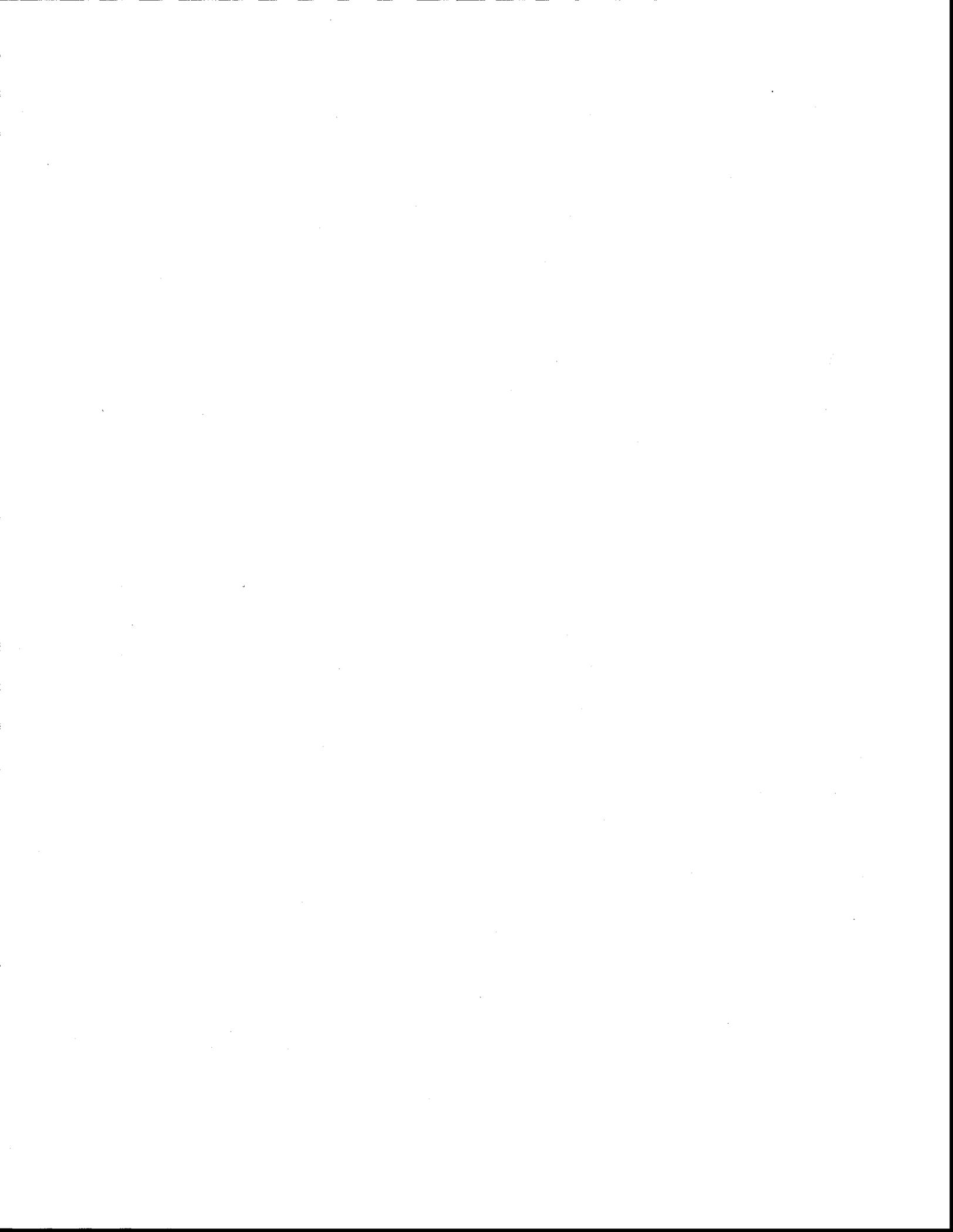
8 The General Assembly of North Carolina enacts:

9 Section 1. (a) The Division of Child Development, Department of
10 Health and Human Services, shall ensure that a single, clarified publication is sent to
11 all child care providers that includes the specifics of the laws, rules, and policies
12 necessary for the providers' understanding compliance, and shall update this
13 publication annually by January 1 of each year.

14 (b) This publication shall be in a form that is accessible to all providers
15 and in language that is as clear and concise as possible.

16 (c) The Division of Child Development shall present this publication to
17 the Legislative Study Commission on Child Care prior to issuing it to providers.

18 Section 2. This act becomes effective July 1, 1998.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE DRS1929*-LFZ024(5.13)

Short Title: Child Care Changes.

(Public)

Sponsors: Senator Phillips.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENSURE THAT STATE REGULATION OF CHILD CARE IS
3 DEVELOPED AND ADMINISTERED FAIRLY AND EFFECTIVELY AS
4 RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON CHILD
5 CARE.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 110-91(6) reads as rewritten:

8 "(6) Space and Equipment Requirements. -- There shall be no less than
9 25 square feet of indoor space for each child for which a child care
10 center is licensed, exclusive of closets, passageways, kitchens, and
11 bathrooms, and this floor space shall provide during rest periods
12 200 cubic feet of airspace per child for which the center is
13 licensed. There shall be adequate outdoor play area for each child
14 under rules adopted by the Commission which shall be related to
15 the size of center and the availability and location of outside land
16 area. In no event shall the minimum required exceed 75 square
17 feet per child. The outdoor area shall be protected to assure the
18 safety of the children receiving child care by an adequate fence or
19 other protection. A center operated in a public school shall be
20 deemed to have adequate fencing protection. A center operating
21 exclusively during the evening and early morning hours, between
22 6:00 P.M. and 6:00 A.M., need not meet the outdoor play area
23 requirements mandated by this subdivision.

24 Each child care facility shall provide indoor area equipment and
25 furnishings that are child size, sturdy, safe, and in good repair.

1 Each child care facility that provides outdoor area equipment and
2 furnishings shall provide outdoor area equipment and furnishings
3 that are child size, sturdy, free of hazards that pose a threat of
4 serious ~~injury~~ injury, as determined by the prescription in this
5 subdivision, to children while engaged in normal play activities,
6 and in good repair.

7 The Commission shall determine whether a particular piece of
8 outdoor area equipment poses a threat of serious injury (i) on the
9 basis of current statewide and other states' data of equipment-
10 related serious injuries or (ii) on the basis that the equipment is or
11 has been subject to a manufacturer's recall. The Commission shall
12 not consider any injury as a serious injury if it resulted solely in
13 splinters, bumps, bruises, or other minor injury or solely in a trip
14 to the doctor.

15 The Commission shall adopt standards to establish minimum
16 requirements pursuant to the prescriptions in this subdivision for
17 equipment appropriate for the size of child care facility.

18 Space shall be available for proper storage of beds, cribs, mats,
19 cots, sleeping garments, and linens as well as designated space for
20 each child's personal belongings."

21 Section 2. G.S. 110-91(8) reads as rewritten:

22 "(8) Qualifications for Staff. -- All child care center administrators shall
23 be at least 21 years of age. All child care center administrators
24 shall have the North Carolina Early Childhood Administration
25 Credential or its equivalent as determined by the Department. All
26 child care administrators performing administrative duties as of the
27 date this act becomes law and child care administrators who
28 assume administrative duties at any time after this act becomes law
29 and until September 1, 1998, shall obtain the required credential
30 by September 1, 2000. Child care administrators who assume
31 administrative duties after September 1, 1998, shall begin working
32 toward the completion of the North Carolina Early Childhood
33 Administration Credential or its equivalent within six months after
34 assuming administrative duties and shall complete the credential or
35 its equivalent within two years after beginning work to complete
36 the credential. Each child care center shall be under the direction
37 or supervision of a person meeting these requirements. All staff
38 counted toward meeting the required staff-child ratio shall be at
39 least 16 years of age, provided that persons younger than 18 years
40 of age work under the direct supervision of a credentialed staff
41 person who is at least 21 years of age. All lead teachers in a child
42 care center shall have at least a North Carolina Early Childhood
43 Credential or its equivalent as determined by the Department.
44 Lead teachers shall be enrolled in the North Carolina Early

1 Childhood Credential coursework or its equivalent as determined
2 by the Department within six months after becoming employed as
3 a lead teacher or within six months after this act becomes law,
4 whichever is later, and shall complete the credential or its
5 equivalent within 18 months after enrollment. The North Carolina
6 Early Childhood Credential or any educational equivalent shall be
7 a basic, generic introduction to early childhood education that is
8 grounded in sound child development practices.

9 For child care centers licensed to care for 200 or more children,
10 the Department, in collaboration with the North Carolina Institute
11 for Early Childhood Professional Development, shall establish
12 categories to recognize the levels of education achieved by child
13 care center administrators and teachers who perform
14 administrative functions. The Department shall use these categories
15 to establish appropriate staffing based on the size of the center and
16 the individual staff responsibilities.

17 Effective January 1, 1998, an operator of a licensed family child
18 care home shall be at least 21 years old and have a high school
19 diploma or its equivalent. Operators of a family child care home
20 licensed prior to January 1, 1998, shall be at least 18 years of age
21 and literate. Literate is defined as understanding licensing
22 requirements and having the ability to communicate with the
23 family and relevant emergency personnel. Any operator of a
24 licensed family child care home shall be the person on-site
25 providing child care.

26 No person shall be an operator of nor be employed in a child
27 care facility who has been convicted of a crime involving child
28 neglect, child abuse, or moral turpitude, or who is an habitually
29 excessive user of alcohol or who illegally uses narcotic or other
30 impairing drugs, or who is mentally or emotionally impaired to an
31 extent that may be injurious to children.

32 The Commission shall adopt standards to establish appropriate
33 qualifications for all other staff in child care centers. These
34 standards shall reflect training, experience, education and
35 credentialing and shall be appropriate for the size center and the
36 level of individual staff responsibilities. It is the intent of this
37 provision to guarantee that all children in child care are cared for
38 by qualified people. No requirements may interfere with the
39 teachings or doctrine of any established religious organization."

40 Section 3. Section 28.2 of S.L. 1997-506 reads as rewritten:

41 "Section 28.2. (a) There is established the Legislative Study Commission on Child
42 Care. The Commission shall study ~~the substantive issues contained in Part 1 of this~~
43 act, the statutes, rules, and policies relating to child care and shall serve as a
44 legislative oversight body to review these statutes, rules, and policies and the State

1 agencies and the public-private agencies involved in administering and enforcing
2 them. There shall be 20 members of the Commission as follows:

3 (1) Ten members appointed by the Speaker of the House of
4 Representatives, seven of whom shall be members of the House of
5 Representatives at the time of their appointment, and three of
6 whom shall be members of the general public interested in child
7 care;

8 (2) Ten members appointed by the President Pro Tempore of the
9 Senate, seven of whom shall be members of the Senate at the time
10 of their appointment, and three of whom shall be members of the
11 general public interested in child care.

12 (b) Commission members shall receive no salary for serving, but shall
13 receive necessary subsistence and travel expenses in accordance with G.S. 120-3.1,
14 138-5, and 138-6 as applicable. Staff to the Commission shall be provided as
15 authorized by the Legislative Services Commission. The Commission may meet in
16 the Legislative Building or the Legislative Office Building upon approval of the
17 Legislative Services Officer.

18 (c) The Division of Child Development, Department of Health and
19 Human Services, the Child Care Commission of the Department of Health and
20 Human Services, and any other State or public-private agency charged with
21 rulemaking for child care programs and services shall present to the Commission for
22 its oversight review all documentation and data on which new child care rules and
23 standards that are being considered to be developed are based, prior to their
24 development. The Commission shall regularly review child care programs and
25 services as well as the functioning of the State and public-private agencies involved in
26 administering these child care programs and services. The Commission shall report
27 its findings and recommendations, including proposed legislation, to the ~~1997 General~~
28 ~~Assembly, Regular Session 1998, and shall make its final report to the 1999 General~~
29 ~~Assembly upon its convening. Upon issuing its final report, the Commission shall~~
30 ~~expire. General Assembly within a week of the convening of every regular session.~~
31 The Commission shall continue in existence until the General Assembly acts to
32 terminate it."

33 Section 4. (a) The Division of Child Development, Department of Health
34 and Human Services, when it uses the internet to make facilities' compliance history
35 available to the public, shall provide for the facilities' providers to submit a statement
36 relevant to the compliance history. This statement's limits shall be no less than 100
37 words.

38 (b) If the Division of Child Development, Department of Health and
39 Human Services, makes complaints from persons who have signed a complaint to the
40 Division against facilities available to the public on the internet, the Division shall
41 provide for the facilities' providers to submit a statement relevant to the complaint.
42 This statement's limits shall be no less than 100 words. The Division shall not make
43 complaints from persons who have not signed the complaint available to the public
44 on the internet.

1 Section 5. This act becomes effective June 30, 1998.